

REMARKS

An Excess Claim Fee is submitted herewith for two (2) excess total claims.

Claims 1-13 and 21-27 are all the claims presently pending in the application. Claim 1 has been amended. Claim 27 has been withdrawn. Claims 28-29 have been added.

It is noted that the claim amendments are made only for more particularly pointing out the invention, and not for distinguishing the invention over the prior art, narrowing the claims or for any statutory requirements of patentability. Further, Applicant specifically states that no amendment to any claim herein should be construed as a disclaimer of any interest in or right to an equivalent of any element or feature of the amended claim.

Claims 1-13 and 21-26 stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Swartzel et al. (U. S. Pat. No. 6,552,663) in view of Johnson (U.S. Pat. No. 6,624,757).

This rejection is respectfully traversed in view of the following discussion.

I. THE CLAIMED INVENTION

An exemplary aspect of the claimed invention (e.g., as defined by claim 1) is directed to a system for restocking and repricing merchandise, including a shelf label including information printed thereon for identifying a section of a shelf, a shelf label holder which holds the shelf label and includes an illuminating device including a plurality of illuminating sections, and a hand-held unit which remotely causes the illuminating device to illuminate a section of the plurality of illuminating sections which corresponds to the section of the shelf under a predetermined condition (Application at Figure 2; paragraphs [0032], [0037]).

This feature may help guide a store clerk to a correct store location for restocking and/or repricing merchandise (Application at page 2, lines 13-16).

II. THE ALLEGED PRIOR ART REFERENCES

The Examiner alleges that Swartzel would have been combined with Johnson to form the invention of claims 1-13 and 21-26. Applicant would submit, however, that these references would not have been combined and even if combined, the combination would not teach or suggest each and every element of the claimed invention.

In particular, Applicant respectfully submits that these alleged references are

unrelated. Indeed, no person of ordinary skill in the art would have considered combining these disparate references, absent impermissible hindsight.

In fact, Applicant submits that the references provide no motivation or suggestion to urge the combination as alleged by the Examiner. Indeed, these references clearly do not teach or suggest their combination. Therefore, Applicant respectfully submits that one of ordinary skill in the art would not have been so motivated to combine the references as alleged by the Examiner. Therefore, the Examiner has failed to make a prima facie case of obviousness.

Moreover, nowhere does Swartzel, or Johnson, or any alleged combination thereof teach or suggest *"a shelf label holder which holds said shelf label and comprises an illuminating device including a plurality of illuminating sections; and a hand-held unit which remotely causes said illuminating device to illuminate a section of said plurality of illuminating sections which corresponds to said section of said shelf under a predetermined condition"*, as recited in claim 1 (Application at Figure 2; paragraphs [0032], [0037]). As noted above, this feature may help guide a store clerk to a correct store location for restocking and/or repricing merchandise (Application at page 2, lines 13-16).

Clearly, these features are not taught or suggested by Swartzel.

Swartzel simply discloses a display system including a plurality of display tags associated with product storage areas, a controller for communicating with the display tags, and a portable wireless terminal for communicating with the controller (Swartzel at Abstract). Indeed, the Examiner concedes that Swartzel does not teach or suggest the shelf label holder of the claimed invention (As an aside, Applicant notes that the claimed invention is not necessarily restricted to a "singular" illuminating device as asserted by the Examiner on page 4 of the Office Action). However, the Examiner alleges that Johnson teaches this feature. This is clearly incorrect.

In fact, Johnson simply discloses a shelf pricing display apparatus which includes an electronic display strip 4, a computing means for assigning the display strip 4 a unique strip address code, and a communication means for transmitting information from the computing means to the display strip 4 (Johnson at col. 4, lines 20-44). The Examiner attempts to equate the display strip 4 with the illuminating device of the claimed invention. This is clearly unreasonable.

In particular, nowhere does Johnson teach or suggest that a hand-held unit remotely causes the display strip 4 to illuminate a section of a plurality of illuminating sections which corresponds to a section of the shelf under a predetermined condition. Therefore, Johnson clearly does not make up for the deficiencies of Swartzel.

Therefore, Applicant would submit that these references would not have been combined and even if combined, the combination would not teach or suggest each and every element of the claimed invention. Therefore, the Examiner is respectfully requested to withdraw this rejection.

III. FORMAL MATTERS AND CONCLUSION

In view of the foregoing, Applicant submits that claims 1-13, 21-26 and 28-30, all the claims presently pending in the application, are patentably distinct over the prior art of record and are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue at the earliest possible time.

Should the Examiner find the application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary in a telephonic or personal interview.

The Commissioner is hereby authorized to charge any deficiency in fees or to credit any overpayment in fees to Assignee's Deposit Account No. 50-0510.

Respectfully Submitted,

Date: July 15, 2008

/Phillip E. Miller/
Phillip E. Miller, Esq.
Registration No. 46,060

McGinn IP Law Group, PLLC
8321 Old Courthouse Road, Suite 200
Vienna, VA 22182-3817
(703) 761-4100

Customer No. 48150